



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

April 30, 2003

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Environmental Justice News for the Week Ending April 20, 2003

FROM: Nicholas Targ, Counsel
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This summarizes environmental justice related news for April 14, 2003, through the week ending April 20, 2003. Except as noted, this review is confined to Lexis/Nexis queries conducted under the following search: "(environment! w/2 (justice or racism or equity or disproportionate or disparate)) or (environment! w/50 minorit! or low***income) or (executive order 12898) or (civil right! w/50 environmental)". Please note that we have not included multiple articles covering the same topic or articles pertaining to international or foreign-based environmental justice issues, unless they have a direct connection to the United States.

For the week ending April 20, 2003, the following news is current:

A. News-

1. Kate Grusich, "Cleanup efforts gain national recognition; Waukegan's project among 15 of its kind in the nation lauded for benefits," Chicago Daily Herald, Chicago, Illinois (April 20, 2003).

The article reports on the selection of the Waukegan Cleanup and Revitalization Group-- one of fifteen national projects chosen by the Interagency Working Group on Environmental Justice ("IWG")-- to participate in the IWG Action Agenda. The Waukegan Cleanup and Revitalization Group consists of the Army Corps of Engineers, the Waukegan Harbor Citizens Advisory Group, United Latino Coalition of Lake County, the City of Waukegan and EPA, working together in a collaborative, cooperative partnership to clean-up and revitalize the Waukegan Harbor.

2. Cataluna Lee, "Crusader fights unpopular fight," The Honolulu Advertiser, Honolulu, Hawaii

(April 20, 2003).

The article focuses on Carroll Cox's fight to bring attention to alleged illegal dumping at the Waipahu incinerator. According to the article, Cox is the founder of EnviroWatch, a group which has as its goal, "putting an end to environmental injustice by way of investigating and exposing environmental degradation, habitat destruction, poaching, clear cutting, pollution, animal cruelty, and government waste and abuse." Cox said, "Half of the environmental problems I work on, the state has been there, issued a statement of strict conditions to be met, said they'll fine the responsible party until they're dead, but nothing happens."

3. Dina Cappiello, "Legacy of the Land; His battle with pollution is far from over," The Houston Chronicle, Houston, Texas (April 20, 2003).

Armando Quintanilla and San Antonio Community residents seek remediation of ground water contamination from the Kelly Air Force Base and environmental justice, according to the article. The article reports that, "pollution was traced to the base, where Quintanilla and many of his neighbors worked. Tests showed that solvents used to degrease parts and fuels leaking from underground tanks had seeped beneath 20,000 homes in the largely Hispanic neighborhood." The article states that, "A cleanup is now under way, but the government has not paid the community for damages. Quintanilla said he isn't giving up."

4. "Environmental Justice Policy Outlined," The Associated Press (April 19, 2003).

The short article reviews aspects of the New York State Department of Environmental Conservation Policy addressing environmental justice in the permitting process.

5. Ana Radelat, "Mississippi youth ask lawmakers help to clean up toxic neighborhoods," Gannett News Service (April 18, 2003).

A delegation of representatives from Jesus People Against Pollution (JPAP), headed by Charlotte Keys, "[asked] Mississippi lawmakers to push for the enforcement of environmental laws." The article reports that the faith-based, JPAP, delegation met with staff from the offices of Senator Thad Cochran (R-Miss.) and Representatives Bennie Thompson, (D-Miss.) and Gene Taylor (D-Miss.). According to the article, "Keys said Mississippians who live in polluted communities suffer higher than normal rates of birth defects, lupus, miscarriages, and respiratory illnesses."

6. Dale Dempsey, "Disposal Proposal Target of Complaint; Jefferson Township group charges race, income bias in plan," Dayton Daily Newspaper, Dayton, Ohio (April 17, 2003).

The article reports, "A Jefferson Township group in Ohio has filed an environmental justice complaint against the U.S. EPA and the Department of Defense about the Army's plans to dispose of a byproduct of the destruction of VX nerve gas at [a] hazardous-waste handling operation in the township's Drexel neighborhood." According to the article the nerve agent would be moved to a comparatively lower-income, minority community from its present location. Ellis Jacobs, who helped prepare the complaint, said "The citizens feel that once again their community is being targeted for environmentally dangerous activities. This administrative complaint is just one of the ways that this community is standing up for health and safety and against discrimination..."

7. Roger Witherspoon, "Indian Point plan, minority concerns to be discussed," The Journal

News (April 17, 2003).

African American Men of Westchester (AAMW) will hold their first environmental conference at the Theodore Young Community Center in Greenburgh on May 3, 2003. The conference will focus on energy and the environmental issues affecting minority communities. The conference will include a panel on environmental justice.

8. "PACE International Union and Ponca Indian Tribe Initiate Legal Action Against Continental Carbon for Air Pollution Violations; Oklahoma Department of Environmental Quality Accused of Failure to Enforce the Law," PR Newswire (April 15, 2003).

Residents of Ponca, Oklahoma, and the Ponca Tribe accused the Oklahoma Department of Environmental Quality (DEQ) and Continental Carbon Corporation of "environmental racism," based on violations of the Clean Air Act, according to the article. The company was served by area residents with a "Request for Investigation and Notice of Alleged Violations and Intent to Sue," as required before citizens may file suit to enforce the Clean Air Act.

B. Litigation—

South Camden Citizens in Action v. New Jersey Department of Environmental Protection, 1003 U.S. Dist. LEXIS 6303 (April 16, 2003).

The court grants, in part, and denies in part, the State of New Jersey and St. Lawrence Cement Company's motion to dismiss. The court finds that plaintiffs' have:

- (1) alleged facts sufficient to state a claim for intentional discrimination under Title VI of the Civil Rights Act of 1964 or the 14th Amendment;
- (2) not established a basis for claims under the Fair Housing Act, as:
 - (a) New Jersey DEP did not limit the "availability of housing or related services" to plaintiffs, as required under 42 § U.S.C. 3604(a), and
 - (b) the "NJDEP is not responsible for the door-to-door ministrations such as those provided by police departments, fire departments, or other municipal units," and therefore is not covered by Title VIII of the Fair Housing Act;
- (3) properly alleged facts that could make out a claim for private nuisance. But, because the emission of air pollution is subject to a comprehensive regulatory scheme, plaintiffs cannot state a claim of public nuisance.